GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Revenue (Lands) Department - Vizianagaram District - Kothavalsa Mandal - Thummikapalli Village – Orders of the High Court of Andhra Pradesh in W.P.No. 24625 of 2020 dt. 12-4-2023 directing the Government to pass appropriate orders upon the representation of the petitioner dated. 9-3-2019 - orders –passed.

REVENUE(LANDS- II) DEPARTMENT

G.O.Rt.No.774 **Dated:23-08-2023**

Read the following:

1.Representation, dated.9-3-2019 of Uma Jute Twine Mills, Kottavalsa, Vizianagaram District, represented by Sri T.Sapthagiri, Partner.

2.Orders of the High Court of Andhra Pradesh in W.P.No.24625/2020, dt.12-4-2023.

3. Letter Rc. No. 433/2022/SA dt. 22-5-2023 of the Tahsildar, Kottavalsa addressed to the District Collector, Vizianagaram.

4. Letter R.C. No. 2364/2022/E2 dt. 30-5-2023 of the District Collector, Vizianagaram.

ORDER:

Uma Jute Twine Mills, Kottavalsa, Vizianagaram District represented by Sri T.Sapthagiri, partner filed W.P. No. 24625/2020 in the High Court of Andhra Pradesh and the Court in its order Dated: 12-4-2023 directed the first respondent - Principal Secretary to Government, Revenue Department, to examine and pass appropriate orders basing upon the representation dated 09.03.2019 and also to consider the observations made by this court regarding power of Tahsildar to change the classification of the land under clause (2) of Section 34-D of the Board Standing Orders, within a period of six weeks from the date of receipt of the order.

2. In the representation dated 9-3-2019, the petitioner stated that the land of an extent of Ac.7.29cts in Sy.No.176/2 of Tummikapalle Village of Kothavalasa Mandal, Vizianagaram District was an Inam land which was recorded in the Adangal as Pasture Poramboke. The grand fathers of the petitioners purchased the land by registered sale deed and during supplemental survey operations conducted in pursuance of orders issued in G.O.Ms.No.1017, Revenue Department, dated.07.04.1973, they filed their claim and the Tahsildar, S. Kota incorporated the changes in the revenue records as per the provisions of B.S.O. 34-D in the year 1977 vide his proceedings R.Dis.No.2250/77.B2, dated 28.06.1977. The fact was recorded in the Fair Adangal prepared during final Check Operations and patta was issued to them vide Patta No.26 and the petitioners are in peaceful possession and enjoyment of the property for more than 50 years. He has further stated that on a complaint made to the Hon'ble Lokayuktha alleging that the petitioners occupied the land illegally and demanded the allotment of land for house sites and on the basis of the facts reported by the Tashsildar, Kothavalasa and the Collector, Vizianagaram, the Hon'ble Lok Ayukta dismissed the complaint. The petitioner, therefore, represented to the Principal Secretary to the Government, Revenue Department to de-notify the land under Section 22-A of the Registration Act, 1908.

3. The High Court in the above orders observed that, as per the Board Standing Orders 34D, a resurvey is normally undertaken viz (i) when changes in the occupation (ii) the boundaries of fields are too numerous to be dealt with by the Revenue Staff (iii) when the previous survey is found defective. Under clause (ii) of B.S.O. 34-D in all cases where resurvey is undertaken, the Revenue Officers not below the rank of Tahsildar, shall effect in the Revenue Records, necessary changes arising out of such resurvey, in the matter of survey numbers, classification of lands from one class to another or from one head to another, area of the lands,

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rate of assessment and also the quantum of assessment payable by the holder of the land. As per the said provision, the Revenue Officers not below the rank of Tahsildar can effect in the Revenue Records, necessary changes arising out of such resurvey.

4). In pursuance of the orders of the High Court, Government afforded an opportunity of hearing to the petitioner on 4-7-2023.

5). The brief facts of the case are that the Tahsildar, Kothavalasa in his letter Rc.No.433/2022/SA, Dt.22-05-2023 reported that Tummikapalli village of Kothavalasa Mandal is an Estate Village of erstwhile Vizianagaram zamine estate and this village was taken over under the provisions of the Estates Abolition Act, 1948 along with main estate, and survey and settlement operations were conducted and settlement Fair Adangal was introduced long back. As per MDR of Thummikapalli Village, the land in Sy.No.176 admeasuring Ac.10.09 cts was recorded as poramboke "pachika beedu-Grazing land" which is an objectionable poramboke land. As per Final check operations, Sy.No176 was sub-divided into Sy.No.176-1 measuring Ac.2.80 cts classified as poramboke, Sy.No.175/2 measuring Ac.7.29 cts classified as Ryotwari Dry and recorded in favor of Teegala China Venkata Ramayya S/o Balaguruvu and Regara Butchi Venkata Ramulu with Patta No.26. He has further submitted that, the authenticate record for the classification of any land is Settlement Fair Adangal/Manual Diglot Register (MDR). Therefore, the classification of the entire land. In Sy.No.176 will be treated as objectionable Poramboke "Pacchika Beedu" ie. Grazing Land irrespective of the classification recorded in Final Check Operations (FCO) record, Hence, the entire land in Sy.No.176 is placed in the Prohibitory Properties list published U/s 22-A of the Registration Act, 1908. He has further submitted that, as verified from the records produced by the petitioner, the orders have been issued by the Tahsildar, S.Kota for the change of classification from the Pacchika Beedu,, i.e, Grazing Land to the Ryotwari, but to that effect, the incorporations were not made in the FCO record. Further, as per BSO-15 Sec (ll), rule (4)[ii)(a), the objectionable Poramboke lands such as "Grazing lands" are not even permitted for the assignment. Hence, the Orders issued by the then Tahsildar for the Grazing Land i.e. under BSO 34-D are null and void. He has further submitted that, the FCO Tahsildar is competent only to make changes in the extents of holding and the quantum of assessment payable by the Pattadar concerned and hence if there would be any necessity for resettlement, it is for the purpose of carrying out the above limited changes and the Tahsildar has no powers to grant Ryotwari Patta for the Grazing Land under the provisions of B.S.O-34-D. He has also stated that the BSO-34-D is only to restore the classification of Settlement Fair Adangal in the supplemental survey Records and even Grazing land is not eligible for assignment. Hence, the entire land in Sy.No.176 measuring Ac.10.09 cts of Thummikapalli Village was notified U/s 22-A of the Registration Act,1908. It is further submitted that, as per the Judgement of the full bench of the High Court of Andhra Pradesh. Mere Registration of a document shall not confer title on the vendee/alienee'. Therefore, purchase of objectionable Poramboke land by the petitioner through sale deeds are null and void. In view of the above circumstances' the request made by the petitioner for the deletion of the Sy.No. 176/2 measuring an extent of Ac.7.29 Cts of Thummikapalli Village from the prohibited list may not be considered.

6). In the reference 4th read above, the District Collector, Vizianagaram in her report dated.30-5-2023 stated that as per FCO, the land measuring Ac.7.29 cts in Sy.No. 176/2 of Tummikapalli village of Kothavalasa Mandal is correrated to Sy.No.176 with total extent of Ac. 10.09 cts which is classified as Poramboke. In remarks column, it was noted as "Grazing land" in MDR. The Sy.Nos.176-l with Ac.2.80 cts classified as sarkar Poramboke and Sy.No. 176-2 with Ac.7.29 cts classified as Ryotwari Dry which are carved out from Sy.No.l76 of the MDR. While splitting the original Survey number from Settlement record during resurvey, classification should not be changed without any settlement orders from the competent authority. In this instance case, the original Sy.No.176 in Settlement

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record was sub divided into Sy.No. 176/1 and 176/2, in which 176/2 was classified as Ryotwari Dry without any settlement orders. She has further submitted that, with regard to powers of Tahsildar to change the classification of the land under BSO-34-D, in which it is clearly mentioned that effecting the changes in the Revenue accounts as a result of Resurvey, supplemental survey without restricting to settlement. In this instance case, the then Tahsildar, S.Kota has ordered to change the classification from Poramboke to R.Dry under BSO-34-D without taking into consideration of the original classification in settlement record. In view of the circumstances explained above, the request made by the petitioner for the deletion of the Sy.No.176/2 measuring an extent of Ac.7.29 cts of Thummikapalli village is not considerable as the said land is classified as "Pacchika Beedu" i.e., objectionable Poramboke as per MDR record.

7. Government examine the matter and observe that, as per Sec.3 of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 with effect on and from the notified date and save as otherwise expressly provided in this Act:

a. ----

(b) the entire estate (including minor inams (post-settlement or pre-settlement) included in the assets of the zamindari estate at the permanent settlement of that estate; all communal lands and porambokes; other non-ryoti lands; waste lands; pasture lands; lanka lands; forests; mines and minerals; quarries; rivers and streams; tanks and irrigation works; fisheries; and ferries), shall stand transferred to the Government and vest in them, free of all encumbrances; and the Andhra Pradesh (Andhra Area) Revenue Recovery Act, 1864, the Andhra Pradesh (Andhra Area) Irrigation Cess Act, 1865 and all other enactments applicable to ryotwari areas shall apply to the estate;

8. As per Sec. 2.A of the Andhra Pradesh (Andhra Area) Inams (Abolition And Conversion Into Ryotwari) Act, 1956 - Notwithstanding anything contained in this Act all communal lands and porambokes, grazing lands, waste lands, forest lands, mines and quarries, tanks, tank beds and irrigation works, streams and rivers, fisheries and ferries in the Inam lands shall stand transferred to the Government and vest in them free of all encumbrances.

9. Under BSO 34-D, the Tahsildar is the competent to make changes when there are changes in the occupation of holdings of lands and quantum of the assessments payable by the pattadars during re-survey. He cannot change the classification of the land without obtaining the orders of the competent authority.

10). The Division Bench of the High Court of Andhra Pradesh in Pamidimarri Chenchulakshmma vs The Estates Abolition Tribunal (AIR 1972 AP 1) held that an estate being abolished, the entire estate including communal lands and porambokes and other-non-ryoti lands and waste lands. Tanks and irrigation works became vested in the Government free of all encumbrances.

11. Another Division Bench of the High Court of Andhra Pradesh in Director of Settlements, Hyd. And ... vs Neerupaka Rama Krishna (2001 (5) ALD 828) held that under the Estates Abolition Act grant of patta under Section 11 is prohibited in respect of the land which is classified as grazing/ poramboke land and land which is not under cultivation.

12. The High Court of Andhra Pradesh in Konda Varamma vs The District Judge, S.P.S.R.... on 5 November, 2012 held that It is a matter of record that the land in Survey No.596 is classified as grazing poramboke even during British regime. The Board Standing Orders and various enactments provide for preservation of such lands.

13. The Full Bench of the High Court of Andhra Pradesh Vinjamuri Rajagopala Chary And ... Vs State of Andhra Pradesh held that, it is well settled that in any

case registration of a document per se would not create any new title and same is governed by the principle enunciated by the maxim Nemo Dat Quad Non Habet i.e. no person can convey a better title than what he posses in the property so transferred.

14). In view of the above provisions and observations of the High Court, the grazing poramboke lands in an estate / inam estate vest in the Government and Ryotwari Patta can not be granted in respect of such lands. When the vendor has no title to the property, the vendee could not get any better title than him.

15). Government consider that as per MDR of Thummikapalli Village, the land in Sy.No.176 admeasuring Ac.10.09 cts was recorded as poramboke "Pacchika Beedu-Grazing land". Accordingly, the said land was included in the prohibited property list Under Section 22-A of the Registration Act 1908. The petitioner contended that his grand fathers viz., Teegala China Venkata Ramayya S/o Balaguruvu and Regara Butchi Venkata Ramulu purchased the land from the inamdars viz., A. Peda Mutyalu and China Mutyalu by registered sale deeds in the years 1964 and 1965. The petitioner submitted an application to the Tahsildar S.Kota during re-survey for issue of Roytwari patta and the Tahsildar splitted the Sy.No.176 as Sy.No.176/1 and 2 and granted Ryotwari Patta to an extent of acres.7.29 cents in Sy.No.176/2 in Thummak palli village in favour of Teegala China Venkata Ramayya and Regara Butchi Venkata Ramulu with Patta No.26 by exercising power under BSO-34-D. The Tahsildar cannot grant of Roywari patta in respect of grazing lands recorded in Settlement Fair Adangal / MDR by changing the classification of the land contrary to the provisions of above Acts of 1948 and 1956. The Inamdars cannot get valid patta and title to the communal grazing lands and the purchasers of the property from Inamdars also could not get valid title to the property. Accordingly the property was correctly included in the prohibited list. The petitioner has not established his claim to the property, to delete the above land from the prohibited list of properties under section 22-A of the Registration Act, 1908. Therefore his representation is devoid of merit and liable to be rejected. Accordingly the representation of the petitioner, dated.9-3-2019 to delete the land to an extent of Acres.7.29 cents in Sy.No.176/2 in Thummakpalli village, Kothavalasa Mandal from the prohibited list is hereby rejected.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.SAI PRASAD
SPECIAL CHIEF SECRETARY TO GOVERNMENT (FAC)

To
Sri T. Sapthagiri, Partner, Uma Jute Twine Mills, Kottavalsa,
Vizianagaram District.
Copy to:
The District Collector, Vizianagaram
The Tahsildar, Kothavalasa Mandal, Vizianagaram District.
The PS to Spl. Chief Secretary to Govt. Revenue (Land & DM) Dept.,
SC/SF.

//FORWARDED :: BY ORDER//

SECTION OFFICER